

Application No.: 09/966,832
Amendment and Response dated March 24, 2004
Reply to Office Action of January 26, 2004
Docket No.: 760-86 CON
Page 4

REMARKS

Claims 33-41 remain in this application. Claim 33 has been amended. Applicant respectfully requests reconsideration in view of the following remarks.

Applicant's Response to Rejection Under 35 U.S.C. §103

Claims 33-41 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 6,042,605 to Martin et al. (hereinafter "Martin"). Applicant respectfully traverses the rejection on the basis that Martin does not render the amended claims obvious.

The Examiner contends that Martin discloses an endoluminal prosthesis with an elongate ePTFE tubular member, a structural support member, and an elongate securement member that is a flat, thin suture helically arranged with respect to the longitudinal axis of the tubular member. The Examiner admits that Martin fails to disclose the width of the securement member to be less than 0.60 mm, as required in Applicant's claims. The Examiner alleges, however, that it would have been obvious to choose such a width based on the disclosure in Martin.

Martin discloses a stent-graft device including a stent member, graft member, and coupling member, which is a broad or flat ribbon. The coupling member is helically wound around the stent member. Martin, however, does not disclose, teach or suggest the prosthesis as recited in Applicant's amended claims.

In particular, Applicant amended claim 33 herein to further define the elongate securement member. Claim 33 includes a recitation that the securement member is helically arranged at an angle with respect to the longitudinal axis. Applicant amended claim 33 to include a recitation that the securement member also is arranged at a second angle with respect to the longitudinal axis. The securement member, which is arranged at two different angles, intersects itself at node(s) of intersection. Further, the securement member is adhered to itself at these node(s) of intersection.

Application No.: 09/966,832

Amendment and Response dated March 24, 2004

Reply to Office Action of January 26, 2004

Docket No.: 760-86 CON

Page 5

Nowhere in Martin is it disclosed, taught or suggested to arrange the coupling member at two angles with respect to the longitudinal axis and to adhere the coupling member to itself at the intersection points. Nor is there any suggestion or motivation in Martin to alter the coupling member as such. *See In re Kotzab*, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000), *citing B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp.*, 37 USPQ2d 1314, 1318 (Fed. Cir. 1996) ("Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference."). Therefore, Martin does not teach or fairly suggest Applicant's amended claims.

In view of the above, Martin fails to contain any disclosure that would suggest Applicant's claimed prosthesis, as recited in the amended claims. Accordingly, claims 33-41 would not be obvious in view of the teachings of Martin, and Applicant respectfully requests withdrawal of the Section 103 rejection based thereon.

As such, Applicant submits that the present claims 33-41 are patentably distinct over the art and allowable in form. Early allowance is therefore solicited. The Examiner is encouraged to contact Applicant's undersigned attorney should there be any questions regarding this amendment. All correspondence should continue to be directed to the address given below.

Respectfully submitted,



Jamie M. Larmann
Registration No. 48,623
Attorney for Applicants

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700